

SENATE BILL

No. 12

Introduced by Senator Machado

August 28, 2006

An act to amend Section 2911 of the Penal Code, relating to inmate transfers.

LEGISLATIVE COUNSEL'S DIGEST

SB 12, as introduced, Machado. Inmates: transfer to federal or out of state facilities.

Existing law authorizes the Department of Corrections and Rehabilitation to enter into contracts with the United States for the confinement, care, education, treatment, and employment of those persons convicted of criminal offenses in the courts of this state and committed to state prisons as is determined may benefit therefrom, as specified.

This bill would expand the scope of that authority to include contracting with other states or political subdivision thereof for those purposes, as specified. The bill would make other technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2911 of the Penal Code, as amended by
- 2 Section 3 of Chapter 565 of the Statutes of 1994, is amended to
- 3 read:
- 4 2911. (a) ~~The Director~~ *Secretary of the Department of*
- 5 *Corrections and Rehabilitation* may enter into contracts, with the

1 approval of the Director of General Services, with appropriate
2 officials or agencies of the United States, *or officials, agencies,*
3 *or political subdivisions of another state government,* for the
4 confinement, care, education, treatment, and employment of
5 those persons convicted of criminal offenses in the courts of this
6 state and committed to state prisons as the ~~director~~ *secretary*
7 believes can benefit by the confinement, care, education,
8 treatment, and employment.

9 (b) Any contract entered into pursuant to subdivision (a) shall
10 provide for (1) reimbursement to the United States government,
11 *or other state government or political subdivision thereof,* for the
12 cost of those services, including any costs incurred by the
13 government in transporting the prisoners, and (2) any other
14 matters as may be necessary and appropriate to fix the
15 obligations, responsibilities and rights of the respective parties to
16 the contract.

17 (c) No inmate may be transferred from an institution within
18 this state to a federal facility *or an out of state facility* pursuant to
19 a contract entered into pursuant to subdivision (a) unless he or
20 she has executed, in the presence of the warden or other head of
21 the institution in this state in which he or she is confined, a
22 written consent to the transfer. The inmate shall have the right to
23 a private consultation with an attorney of his or her choice,
24 concerning his or her rights and obligations under this section,
25 prior to his or her appearance before the warden or other head of
26 the institution for the purpose of executing the written consent.

27 (d) Whenever a contract has been made pursuant to this
28 section the ~~director~~ *secretary* may direct the transfer of an inmate
29 to the facility designated and shall thereafter deliver the inmate to
30 the custody of the appropriate federal *or out of state* officials for
31 transportation to that facility. An inmate so transferred shall at all
32 times be subject to the jurisdiction of this state and may at any
33 time be removed from the facility in which he or she is confined
34 for return to this state, for transfer to another facility in which
35 this state may have a contractual or other right to confine
36 inmates, for release on probation or parole, for discharge, or for
37 any other purpose permitted by the laws of this state; in all other
38 respects, an inmate transferred to a federal *or out of state* facility
39 shall be subject to all provisions of the law or regulations
40 applicable to persons committed for violations of laws of the

United States *or the receiving state that are* not inconsistent with the sentence imposed on the inmate.

(e) The Board of ~~Prison Terms~~ *Parole Hearings*, and the panels and members thereof, may meet at the federal facility *or out of state facility* where an inmate is confined pursuant to this section or enter into cooperative arrangements with corresponding federal agencies or officials, *or out of state agencies or officials*, as necessary to carry out the term-fixing and parole functions. Nothing in this subdivision shall be deemed to waive an inmate's right to personally appear before the Board of ~~Prison Terms~~ *Parole Hearings*.

(f) Any inmate confined pursuant to a contract entered into pursuant to this section shall be released within the territory of this state unless the inmate, this state, and the federal government ~~shall~~ *or other state government or political subdivision thereof* agree upon release in some other place. This state shall bear the cost of return of the inmate to its territory.

(g) This section shall not apply to an inmate who is transferred by the Department of Corrections *and Rehabilitation* to the United States Immigration and ~~Naturalization Service~~ *Customs Enforcement* pursuant to Section 5025.

SEC. 2. Section 2911 of the Penal Code, as amended by Section 1 of Chapter 567 of the Statutes of 1994, is amended to read:

2911. (a) The ~~Director~~ *Secretary of the Department of Corrections and Rehabilitation* may enter into contracts, with the approval of the Director of General Services, with appropriate officials or agencies of the United States *or officials, agencies, or political subdivisions of another state government* for the confinement, care, education, treatment, and employment of persons convicted of criminal offenses in the courts of this state and committed to state prisons as the ~~director~~ *secretary* believes can benefit by confinement, care, education, treatment, and employment.

(b) Any contract entered into pursuant to subdivision (a) shall provide for (1) reimbursement to the United States government *or to the other state government or political subdivision thereof* for the cost of services, including any costs incurred by the federal government *or other state government or political subdivision thereof* in transporting prisoners, and (2) other

1 matters as may be necessary and appropriate to fix the
2 obligations, responsibilities and rights of the respective parties to
3 the contract.

4 (c) No inmate may be transferred from an institution within
5 this state to a federal facility *or out of state facility* pursuant to a
6 contract unless he or she has executed, in the presence of the
7 warden or other head of the institution in this state in which he or
8 she is confined, a written consent to the transfer. The inmate shall
9 have the right to a private consultation with an attorney of his or
10 her choice, concerning his or her rights and obligations under this
11 section, prior to his or her appearance before the warden or other
12 head of the institution for the purpose of executing the written
13 consent.

14 (d) Whenever a contract has been made pursuant to this
15 section the ~~director~~ *secretary* may direct the transfer of an inmate
16 to the facility designated and shall thereafter deliver the inmate to
17 the custody of the appropriate federal *or out of state* officials for
18 transportation to the facility. An inmate so transferred shall at all
19 times be subject to the jurisdiction of this state and may at any
20 time be removed from the facility in which he or she is confined
21 for return to this state, for transfer to another facility in which
22 this state may have a contractual or other right to confine
23 inmates, for release on probation or parole, for discharge, or for
24 any other purpose permitted by the laws of this state; in all other
25 respects, an inmate transferred to a federal facility *or out of state*
26 *facility* shall be subject to all provisions of the law or regulations
27 applicable to persons committed for violations of laws of the
28 United States *or the receiving state that are* not inconsistent with
29 the sentence imposed on the inmate.

30 (e) The Board of ~~Prison Terms~~ *Parole Hearings*, and the
31 panels and members thereof, may meet at the federal facility *or*
32 *out of state facility* where an inmate is confined pursuant to this
33 section or enter into cooperative arrangements with
34 corresponding federal *or out of state* agencies or officials, as
35 necessary to carry out the term-fixing and parole functions.
36 Nothing in this subdivision shall be deemed to waive an inmate's
37 right to personally appear before the Board of ~~Prison Terms~~
38 *Parole Hearings*.

39 (f) Any inmate confined pursuant to a contract entered into
40 pursuant to this section shall be released within the territory of

1 this state unless the inmate, this state, and the federal government
2 ~~shall or other state government or political subdivision thereof~~
3 agree upon release in some other place. This state shall bear the
4 cost of return of the inmate to his or her territory.

5 (g) This section shall not apply to any inmate or ward who is
6 transferred by the Department of ~~the Youth Authority or the~~
7 ~~Department of~~ Corrections *and Rehabilitation* to the custody of
8 the Attorney General of the United States pursuant to Section
9 5025.

O